

REMARKS

Claims 1-22, 24-33, 35-53, 55, and 59-61 are pending in the present application with claims 2-22, 24-33, 35-53, 55, 60 and 61 having been withdrawn from further consideration. By the present communication, claims 2-22, 24-33, 55, 60 and 61 have been canceled without prejudice, claims 65-67 have been added, and claim 59 has been amended to define Applicants' invention with greater particularity. Support for the amended claims may be found, for example, on page 17, lines 7-12, of the specification, and within the claims as filed. Accordingly, upon entry of the present amendment, claims 1, 59, and 65-67 will be under consideration.

Information Disclosure Statement

The Office alleges that the information disclosure statement filed on November 24, 2003, fails to comply with the provisions of 37 C.F.R. §§1.97-1.98 because the IDS has already been signed by someone else who is not the current examiner. Attached herewith is a resubmission of the IDS on a new form PTO/SB/08 1449 for consideration by the Examiner.

Rejections under 35 U.S.C. §112, Second Paragraph

Applicants respectfully traverse the rejection of claim 59 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Specifically, the Office alleges that claim 59 recites the term "hKCa3/KCNN3" whose metes and bounds are not clear. Without acquiescing to the reasoning offered by the Office, and in order to expedite prosecution of the instant application, Applicants have amended claim 59 to recite a composition comprising a substantially pure hKCa3/KCNN3 polypeptide comprising an amino acid sequence as set forth in SEQ ID NO: 2. Accordingly, Applicants respectfully submit that the claim as amended particularly points out and distinctly claims the subject matter which Applicants regard as the invention. Withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. §112, First Paragraph

Applicants respectfully traverse the rejection of claim 59 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically,

the Office alleges that claim 59 encompasses polypeptide variants, derivatives and fragments of hKCa3/KCNN3 without structural and functional limitations. As discussed above, Applicants have amended claim 59 to recite a composition comprising a substantially pure hKCa3/KCNN3 polypeptide comprising an amino acid sequence as set forth in SEQ ID NO: 2. Accordingly, Applicants respectfully submit that the allegedly essential feature of the invention is defined by the claim as amended. Withdrawal of the rejection is respectfully requested.

Applicants respectfully traverse the rejection of claim 59 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. Specifically, the Office alleges that the specification does not reasonably provide enablement for a polypeptide variant, derivative or fragment of hKCa3/KCNN3 without structural and functional limitations. As discussed above, Applicants have amended claim 59 to recite a composition comprising a substantially pure hKCa3/KCNN3 polypeptide comprising an amino acid sequence as set forth in SEQ ID NO: 2. Accordingly, Applicants respectfully submit that, in view of the specification as filed, one of skill in the art would know how to make and use the claimed invention without undue experimentation. Withdrawal of the rejection is respectfully requested.

In re Application of:
Chandy, et al.
Application No.: 10/722,189
Filed: November 24, 2003
Page 5

PATENT
Attorney Docket No.: UCI1120-4

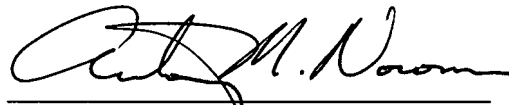
Conclusion

In view of the amendments and above remarks, it is submitted that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application.

Check number 586240 in the amount of \$300.00 is enclosed as payment for the Petition for One-Month Extension of Time fee (\$120.00) and Information Disclosure Statement Submission Fee (\$180.00). No other fee is believed to be due in connection with the filing of this paper. However, the Commissioner is hereby authorized to charge any fees that may be required by this paper, or credit any overpayment to Deposit Account 07-1896 referencing the above-identified attorney docket number. A copy of the Transmittal sheet is enclosed.

Respectfully submitted,

Date: June 27, 2007



Antony M. Novom, J.D.
Registration No. 45,517
Telephone: (858) 638-6641
Facsimile: (858) 677-1465

DLA PIPER US LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133
USPTO CUSTOMER NO. 28213